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**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**EARNEST D. BATTLE**

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)

**Case No.: 2:07-cr-307-MEF**

**MOTION TO CONTINUE TRIAL**

**NOW COMES** the Defendant, **EARNEST D. BATTLE**, by Undersigned Counsel, Donnie W. Bethel, pursuant to 18 U.S.C. 3161 , and respectfully moves the Court for an Order continuing this matter from the July 28, 2008 trial term. In support of this Motion, the Defendant would show the following:

1. This case is currently scheduled for trial on July 28, 2008.
2. The United States, through Assistant United States Attorney Jerusha Adams, filed an Unopposed Motion to Continue Trial based on the scheduling conflicts of both AUSA Adams and Undersigned Counsel. During a telephonic status conference on this motion, the Court indicated that it intends to try this case on the dates of July 28 and 29, 2008. In light of the fact that there are multiple juries to seat for this trial term, it is highly improbable that Mr. Battle will begin the presentation of his case in chief on July 28th, but will rather begin the presentation of his defense sometime on July 29th.
3. Mr. Battle now further states that a key witness to his defense will be traveling out of the State of Alabama on July 29, 2008, and will, therefore, be unavailable for trial. For this additional reason, Mr. Battle now joins with the United States in moving the Court

to continue the trial of this case to the Court's next scheduled trial term.

4. The United States, through Assistant United States Attorney Jerusha Adams, does not oppose this Motion.

**WHEREFORE**, for the reasons set forth above, the Defendant moves this Court to issue an Order continuing the July 28, 2008 trial date.

Dated this 16th day of July, 2008.

Respectfully submitted,

s/ Donnie W. Bethel  
DONNIE W. BETHEL  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 16, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Jerusha T. Adams, Esq., Assistant U. S. Attorney.

Respectfully submitted,

s/ Donnie W. Bethel  
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